

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

JOCELYN MCLEAN

PLAINTIFF

VS.

CIVIL ACTION NO. 22-cv-00033-DPJ-FKB

**FORMER MISSISSIPPI DEPUTY CHIEF
MEDICAL EXAMINER J. BRENT DAVIS,
M.D., ET AL.**

DEFENDANTS

**DEFENDANT J. BRENT DAVIS, M.D.’S MOTION TO RECONSIDER DENIAL OF
QUALIFIED IMMUNITY ON PLAINTIFF’S FOURTEENTH AMENDMENT
§ 1983 CLAIM PREMISED ON RECKLESSNESS**

COMES NOW Defendant J. Brent Davis, M.D. (“Dr. Davis”), by and through counsel, and pursuant to Rule 59(e), *Federal Rules of Civil Procedure*, files this his motion to reconsider denial of qualified immunity on Plaintiff’s Fourteenth Amendment § 1983 claim premised on recklessness, and in support thereof would show unto the Court the following:

1. Dr. Davis, formerly a Deputy Chief Medical Examiner in Mississippi, respectfully asks the Court to reconsider its denial of qualified immunity on Plaintiff’s Fourteenth Amendment § 1983 claim premised on recklessness.

2. The Court correctly granted qualified immunity to Dr. Davis on Plaintiff’s *Fourth* Amendment § 1983 claim premised on recklessness. However, the Court denied (without prejudice) qualified immunity with respect to Plaintiff’s *Fourteenth* Amendment § 1983 claim premised on recklessness, finding that Dr. Davis did not assert this argument until his reply brief.

3. Respectfully, Dr. Davis submits that he did in fact assert qualified immunity in defense of both of Plaintiff’s constitutional claims—i.e., the *Fourth and Fourteenth* Amendment claims—in both his motion for partial summary judgment and supporting memorandum of

authorities. Plaintiff acknowledged as much in her response, recognizing that—as a matter of law—the burden thereupon shifted to her to rebut Dr. Davis’ assertion of qualified immunity with clearly-established law.

4. Having failed to do so, Plaintiff failed to meet her summary judgment burden as to her Fourteenth Amendment recklessness claim.

5. For these reasons and those set forth herein, Dr. Davis respectfully requests that the Court would reconsider its ruling and grant him qualified immunity on Plaintiff’s Fourteenth Amendment § 1983 claim premised on recklessness.

6. Dr. Davis adopts and incorporates by reference, as if fully and completely set forth herein, the arguments and authorities set forth in the *Memorandum of Authorities in Support of Defendant J. Brent Davis, M.D.’s Motion to Reconsider Denial of Qualified Immunity on Plaintiff’s Fourteenth Amendment § 1983 Claim Premised on Recklessness*, being filed contemporaneously herewith.

7. On the basis of the grounds asserted herein and as further set forth in the aforementioned memorandum of authorities, Dr. Davis respectfully submits that consistent with FED. R. CIV. P. 59(e), reconsideration is warranted to correct a clear error of law in the application of the summary judgment standard governing qualified immunity, and to prevent manifest injustice in denying Dr. Davis appropriate protection from discovery afforded by the defense of qualified immunity.

WHEREFORE, PREMISES CONSIDERED, Defendant J. Brent Davis, M.D., respectfully requests that the Court make and enter its Order (1) granting reconsideration of the Court’s denial of qualified immunity on Plaintiff’s Fourteenth Amendment § 1983 claim

premised on recklessness [see Dkt. #50]; and (2) granting Dr. Davis qualified immunity on that claim.

THIS the 14th day of February, 2023.

Respectfully submitted,

J. BRENT DAVIS, M.D., DEFENDANT

By: LYNN FITCH, ATTORNEY GENERAL
STATE OF MISSISSIPPI

By: s/Rex M. Shannon III
REX M. SHANNON III (MSB #102974)
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ATTORNEYS FOR DEFENDANT J. BRENT DAVIS, M.D.

CERTIFICATE OF SERVICE

I, Rex M. Shannon III, Special Assistant Attorney General and attorney for Defendant J. Brent Davis, M.D., do hereby certify that I have this date caused to be filed with the Clerk of the Court a true and correct copy of the above and foregoing via the Court's ECF filing system, which sent notification of such filing to all counsel of record.

THIS the 14th day of February, 2023.

s/Rex M. Shannon III
REX M. SHANNON III